

Decision 06-04-058 April 27, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application Sprint Communications Company L.P. (U-5112-C) to Transfer Its California Local Small Business Resale and UNE-P-Based Sprint Complete Sense and Sprint Complete Sense for Business Customer Bases and to Withdraw from Service.

Application 06-01-003
(Filed January 6, 2006)

**DECISION GRANTING APPLICATION TO
TRANSFER CUSTOMER BASES
AND WITHDRAW FROM SERVICE**

Summary

This decision authorizes Sprint Communications Company L.P. (Sprint) to cease offering two service plans and transfer the related customer bases to the incumbent local exchange carriers (ILECs) or to Trinsic Communications, Inc. (U 6027 C) (Trinsic), a competitive local exchange carrier (CLEC), in accordance with the Commission's rules governing customer base transfers.

Background

Sprint received a certificate of public convenience and necessity from the Commission in 1997 and has been providing local exchange service and intra and interLATA long distance service in the State of California since then. It currently has fewer than 100 small-business resale customers and slightly more than 11,000 residential and small-business unbundled network element platform (UNE-P) customers. All its local service offerings are provided in accordance with tariffs on file with the Commission.

Trinsic was originally licensed as an interexchange carrier (D.98-02-056) and competitive local carrier (D.98-11-011) as Z-Tel Communications, Inc., and later changed its legal name to Trinsic Communications, Inc., by Advice Letter 170 in May 2005.

Sprint seeks to withdraw from the resold small-business market and the residential and small-business UNE-P market because economic changes in the resale market and the Federal Communications Commission's (FCC) February 4, 2005 order relieving ILEC's from the obligation of providing mass market switching at UNE prices have made providing service to these markets unprofitable. Sprint proposes to transfer its resold small-business customer base either to a CLEC of the customer's choice or to the underlying ILEC. Sprint further proposes to transfer its UNE-P customer base to a CLEC of the customer's choice or to Trinsic.

Sprint has developed detailed customer notices and transfer plans intended to provide customers with clear information about Sprint's withdrawal from both markets. The notices advise the customers that their services, rates, terms and conditions, and telephone numbers will not change; of the timeline for Sprint's withdrawal; how customers may obtain more information; and that customers will not incur any cost as a result of the transfer. Customers are also being advised that they have a choice of providers and may elect to switch their services to a provider of their choice.

Copies of the notices were provided with the application and have been reviewed in connection with this decision. Resale customers are being informed that if they choose not to change providers prior to Sprint's exit from the local resale market, they will be defaulted to their underlying ILEC subject to the tariff restrictions of that underlying ILEC. UNE-P customers are being informed that if

they choose not to change to another provider prior to Sprint's exit from the local market, they will be transitioned to Trinsic, such service cutovers to occur upon Commission approval of this application.

Sprint is presently in discussions with the underlying ILECs, Pacific Bell Telephone Company (SBC) and Verizon California Inc. (Verizon) to ensure a smooth transfer of the resale customers and those UNE-P customers who elect to receive service from their ILEC. Some of Sprint's resale customers may not meet SBC's or Verizon's minimum tariff requirements. Sprint has proposed that at least one month prior to the service cutover date, the ILECs should identify those customers. Sprint will then inform those customers that their service will be disconnected if they neither resolve their credit issues nor select a new local service provider prior to the service cutover date.

During the period between the filing of the application and the service cutover date, customer service representatives trained to provide complete information and discuss customer options will be available via a toll-free number contained in the initial notice to customers.

On February 9, 2006, Verizon filed a response to the Application. Although the response did not protest the application, it asked that we try to minimize the burdens placed on ILECs who are forced to act as default carriers of small business retail customer.

Discussion

In Decision (D.) 97-06-096 we established a set of minimum notice requirements for transfer of a customer base from one carrier to another:

1. The notice must be in writing.
2. The carrier must provide the notice to customers no later than 30 days prior to the proposed transfer;

3. The notice must contain a straightforward description of the upcoming transfer, any fees the customer will be expected to pay, a toll-free number for questions; and
4. The notice and the carrier's description of service to customers must be included in the advice letter.

The withdrawal plan proposed by Sprint meets these requirements.

The withdrawal plan also complies with state law. Pub. Util. Code § 2889.5 prohibits changing a customer's service provider unless the change has been authorized by the customer after receiving mandated disclosures and the change has been independently verified by a third party. In D.97-12-019, we determined that § 2889.5 was not intended to apply to customer base transfers and in D.97-06-096 we created the notice requirements discussed above for customer base transfers such as that involved there. As part of this decision, we reiterate that customer base transfers are not subject to § 2889.5.

Except for those resale customers who may not meet either SBC's or Verizon's minimum tariff requirements, Sprint's withdrawal from service should have no impact on the services, rates, terms and conditions or telephone numbers of any current Sprint customer. Accordingly, evidentiary hearings on this application are not required.

To minimize the possibility of disconnections we will as part of this decision direct both SBC and Verizon to provide service to Sprint's local exchange resale customers, subject to their respective tariffs.

Categorization and Need for Hearing

In Resolution ALJ 176-3165, dated January 12, 2006, the Commission preliminarily categorized this proceeding as ratesetting and preliminarily determined that hearings were not necessary. Based on the record, we affirm that this is a ratesetting proceeding and that hearings are not necessary.

Comments on Draft Decision

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

John Bohn is the Assigned Commissioner and Karl J. Bemesderfer is the assigned ALJ in this proceeding.

Findings of Fact

1. Sprint Communications L.P. is a certificated carrier pursuant to a CPCN issued in D.97-08-045.
2. Sprint provides resold small business local exchange service to fewer than 100 California customers.
3. Sprint provides residential and small business services via UNE-P to approximately 11,000 California customers.
4. Sprint has notified its California customers in writing of its intention to withdraw from service and transfer the customers to other carriers.

Conclusions of Law

1. Sprint's plan of withdrawal and the notices prepared in accordance with the plan satisfy the notice requirements of D.97-06-096.
2. Pub. Util. Code § 2889.5 does not apply to customer base transfers.
3. Sprint will retain its CPCN as a facilities-based provider of local and long distance service after completing its withdrawal from the resale and UNE-P markets.

O R D E R

IT IS ORDERED that:

1. Sprint Communications Company, L.P. (Sprint) is authorized to withdraw from the resold small-business local exchange market and the residential and small-business unbundled network element platform (UNE-P) market.

2. Sprint is authorized to transfer its resold small-business local exchange customer base to carriers of the customer's choice or to the underlying incumbent local exchange carriers.

3. Sprint is authorized to transfer its residential and small-business UNE-P customer base to carriers of the customer's choice or to Trinsic.

4. Pacific Bell Telephone Company and Verizon California Inc. are ordered to provide service to Sprint's resold small-business local exchange customers subject to their respective minimum tariff requirements.

5. Application 06-01-003 is closed.

This order is effective today.

Dated April 27, 2006, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners